

passengers or property for compensation.

**Jonathan E. Meyer,**

*General Counsel, U.S. Department of Homeland Security.*

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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 2**

[NRC-2022-0205]

**Revision of the NRC Enforcement Policy**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Revision to policy statement.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing a revision to its Enforcement Policy. This revision addresses the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires Federal agencies to adjust their maximum civil monetary penalty amounts annually for inflation.

**DATES:** This action is effective on January 13, 2023.

**ADDRESSES:** Please refer to Docket ID NRC-2022-0205 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0205. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Susanne Woods, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-287-9446, email: [Susanne.Woods@nrc.gov](mailto:Susanne.Woods@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Discussion**

In 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA) to provide for regular adjustments for inflation of civil monetary penalties (CMPs). As amended by the Debt Collection Improvement Act of 1996, the FCPIAA required that the head of each Federal agency review and, if necessary, adjust by regulation the CMPs assessed under statutes enforced

by the agency at least once every 4 years.

On November 2, 2015, the President of the United States signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Improvements Act), which further amended the FCPIAA and requires Federal agencies to adjust their CMPs annually for inflation no later than January 15 of each year. The requirements of the 2015 Improvements Act apply to the NRC's maximum CMP amounts for (1) a violation of the Atomic Energy Act (AEA) of 1954, as amended, or any regulation or order issued under the AEA, codified in § 2.205(j) of Title 10 of the *Code of Federal Regulations* (10 CFR), "Civil penalties"; and (2) a false claim or statement made under the Program Fraud Civil Remedies Act, codified in § 13.3, "Basis for civil penalties and assessments."

Pursuant to the 2015 Improvements Act, the NRC published today in the Rules section of the **Federal Register** the revised maximum daily base CMP, based on the percentage change in the consumer price index between October 2021 and October 2022, and codified in § 2.205. In connection with this final rule, the NRC is publishing a corresponding update to the NRC's Enforcement Policy to adjust the monetary amounts listed in Section 8.0, "Table of Base Civil Penalties." This monetary adjustment does not include item f. since its monetary value is based on the estimated or actual cost of authorized disposal and is not calculated based on the monetary value codified in § 2.205(j). Adjustments to item f. base civil penalty amounts are being examined under a separate effort.

Accordingly, the NRC has revised its Enforcement Policy to read as follows:

**8.0—TABLE OF BASE CIVIL PENALTIES**  
[Table A]

a. Power reactors, gaseous diffusion uranium enrichment plants, and high-level waste repository .....	\$350,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM and uranium conversion facilities .....	175,000
c. All other fuel fabricators, including facilities under construction, authorized to possess Category III quantities of SNM, industrial processors, independent spent fuel and monitored retrievable storage installations, mills, gas centrifuge and laser uranium enrichment facilities .....	87,500
d. Test reactors, contractors, waste disposal licensees, industrial radiographers, and other large material users .....	35,000
e. Research reactors, academic, medical, or other small material users .....	17,500
f. Loss, abandonment, or improper transfer or disposal of regulated material, regardless of the use or type of licensee:	
1. Sources or devices with a total activity greater than 3.7 × 10 <sup>4</sup> MBq (1 Curie), excluding hydrogen-3 (tritium) .....	54,000
2. Other sources or devices containing the materials and quantities listed in 10 CFR 31.5(c)(13)(i) .....	17,000
3. Sources and devices not otherwise described above .....	7,000
g. Individuals who release safeguards information .....	8,750

**II. Paperwork Reduction Act Statement**

This policy statement does not contain any new or amended collection

of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*). Existing collections of

information were approved by the Office of Management and Budget

(OMB), approval numbers 3150–0010 and 3150–0136.

### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

### III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has determined that it is not a “major rule” as defined by the Congressional Review Act.

Dated: December 21, 2022.

For the Nuclear Regulatory Commission.

**Daniel H. Dorman,**

*Executive Director for Operations.*

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**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2 and 13

[NRC–2021–0025]

RIN 3150–AK59

### Adjustment of Civil Penalties for Inflation for Fiscal Year 2023

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to adjust the maximum civil monetary penalties it can assess under statutes enforced by the agency. These changes are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The NRC is amending its regulations to adjust the maximum civil monetary penalty for a violation of the Atomic Energy Act of 1954, as amended, or any regulation or order issued under the Atomic Energy Act from \$326,163 to \$351,424 per violation, per day. Additionally, the NRC is amending provisions concerning program fraud civil penalties by adjusting the maximum civil monetary penalty under the Program Fraud Civil Remedies Act from \$12,537 to \$13,508 for each false claim or statement.

**DATES:** This final rule is effective on January 13, 2023.

**ADDRESSES:** Please refer to Docket ID NRC–2021–0025 when contacting the

NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2021–0025. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

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**FOR FURTHER INFORMATION CONTACT:** Carrie McCann, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0888; email: [Carrie.McCann@nrc.gov](mailto:Carrie.McCann@nrc.gov).

### SUPPLEMENTARY INFORMATION:

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#### I. Background

Congress passed the Federal Civil Penalties Inflation Adjustment Act of

1990 (FCPIAA) to allow for regular adjustment for inflation of civil monetary penalties (CMPs), maintain the deterrent effect of such penalties and promote compliance with the law, and improve the collection of CMPs by the Federal government (Pub. L. 101–410, 104 Stat. 890; 28 U.S.C. 2461 note). Pursuant to this authority, and as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–34, 110 Stat. 1321–373), the NRC increased via rulemaking the CMP amounts for violations of the Atomic Energy Act of 1954, as amended (AEA) (codified at § 2.205 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Civil penalties”) and Program Fraud Civil Remedies Act (codified at § 13.3, “Civil penalties and assessments”) on four occasions between 1996 and 2008.<sup>1</sup>

On November 2, 2015, Congress amended the FCPIAA through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Improvements Act) (Sec. 701, Pub. L. 114–74, 129 Stat. 599). The 2015 Improvements Act required that the head of each agency perform an initial “catch-up” adjustment via rulemaking, adjusting the CMPs enforced by that agency according to the percentage change in the Consumer Price Index (CPI) between the month of October 2015 and the month of October of the calendar year when the CMP amount was last established by Congress. The NRC published this catch-up rulemaking on July 1, 2016 (81 FR 43019).

The 2015 Improvements Act also requires that the head of each agency continue to adjust CMP amounts, rounded to the nearest dollar, on an annual basis. Specifically, each CMP is to be adjusted based on the percentage change between the CPI for the month of October, and the CPI for the month of October for the previous year. The NRC most recently adjusted its civil penalties for inflation according to this statutory formula on January 14, 2022 (87 FR 2310). This year’s adjustment is based on the increase in the CPI from October 2021 to October 2022.

<sup>1</sup> Adjustment of Civil Penalties for Inflation (73 FR 54671; Sept. 23, 2008); Adjustment of Civil Penalties for Inflation (69 FR 62393; Oct. 26, 2004); Adjustment of Civil Penalties for Inflation; Miscellaneous Administrative Changes (65 FR 59270; Oct. 4, 2000); Adjustment of Civil Monetary Penalties for Inflation (61 FR 53554; Oct. 11, 1996). An adjustment was not performed in 2012 because the FCPIAA at the time required agencies to round their CMP amounts to the nearest multiple of \$1,000 or \$10,000, depending on the size of the CMP amount, and the 2012 percentages based on the statutory formula were small enough that no adjustment resulted.